

This instrument was prepared by:  
Clayton T. Sweeney, Esquire  
2700 Highway 280 East  
Suite 160  
Birmingham, Alabama 35223

Send Tax Notice to:  
David G. Powless  
240 Courtside Drive  
Birmingham, AL 35242

STATE OF ALABAMA     )  
COUNTY OF SHELBY    )

### STATUTORY WARRANTY DEED

**KNOW ALL MEN BY THESE PRESENTS**, that in consideration of TWO HUNDRED THIRTY FIVE THOUSAND FOUR HUNDRED AND NO/100 Dollars (\$235,400.00) to the undersigned grantor, EDDLEMAN PROPERTIES, INC., an Alabama Corporation, in hand paid by Grantee named herein, the receipt of which is hereby acknowledged, the said EDDLEMAN PROPERTIES, INC., an Alabama Corporation, does by these presents, grant, bargain, sell and convey unto **David G. Powless and Karin W. Powless** (hereinafter referred to as "Grantee", whether one or more), as joint tenants with rights of survivorship, the following described real estate (the "property"), situated in Shelby County, Alabama, to-wit:

Unit 55, according to the Declaration of Condominium of Courtside at Brook Highland, a Condominium, recorded as Inst. No. 20020521000241450 in the Probate Office, as amended by the Amendment to Declaration dated May 8th 2002, recorded as Inst. No. 20020521000241460 and as further amended by the corrective amendment dated May 21, 2002, recorded as Inst. No. 20020521000241470 in said Probate Office as reflected in the Plan of Courtside at Brook Highland, a Condominium attached as Exhibit C to the said Declaration and separately recorded in Map Book 28, Page 103, in the said Probate Office.

Mineral and mining rights excepted.

The above property is conveyed subject to:

- (1) Ad Valorem taxes due and payable October 1, 2003.
- (2) Easements as shown by recorded plat, including an undetermined size on the Westerly and Northerly side of lot.
- (3) Easement(s) to Alabama Power Company as shown by instrument recorded in Real 207 page 380, Real 220, Page 521, Real 220, Page 532 and Real 207, Page 380, in said Probate Office.
- (4) Reciprocal Easement Agreement between AmSouth Bank, N.A., as Ancillary Trustee for NCNB National Bank of North Carolina as Trustee for the Public Employees Retirement System of Ohio and Eddleman and Associates, as set out in instrument dated April 14, 1987, and recorded in Real 125, Page 249, in said Probate Office.
- (5) Brook Highland Common Property Declaration of Covenants, Conditions and Restrictions set out in Real 307 page 950 in said Probate Office.
- (6) Declaration of Protective Covenants for the "Watershed Property", which provides, among other things, for an Association to be formed to assess and maintain the Watershed Maintenance Areas, etc. of the development; all of said covenants, restrictions and conditions being set out in instrument recorded in Real 194, Page 54, in said Probate Office.
- (7) Drainage Agreement between AmSouth Bank, N.A., as Ancillary trustee for NCNB National Bank of North Carolina, as Trustee of the Public Employees Retirement System of Ohio and Eddleman and Associates, as set out in instrument dated April 14, 1987 and recorded in Real 125, Page 238 in said Probate Office.
- (8) Easement for sanitary sewer lines and water lines in favor of The Water Works and Sewer Board of the City of Birmingham recorded in Real 194, Page 1, in the Probate Office.
- (9) Restrictive Agreement and Protective Covenants including restrictive use of property as set out in Inst. #1992-14567, Real 308 Page 1, Inst. # 1993-32011 and Real 220 page 339 in the Probate Office.
- (10) Reciprocal Easement Agreement between AmSouth Bank, N.A. as Ancillary Trustee for NCNB National Bank of North Carolina as Trustee for the Public Employees Retirement Systems of Ohio and Billy and Douglas Eddleman, as set out in instrument dated August 9, 1988 and recorded in Real 199 Page 18 in the Probate Office
- (11) Agreement concerning Electric Service to NCNB/Brook Highland and Alabama Power



Company recorded in Real 306 page 119 in Probate Office.

12) Title to all minerals within and underlying the premises, together with all mining rights and other rights, privileges and immunities relating thereto, including rights set out in Deed Book 121, Page 294 and Deed Book 28, Page 581, in said Probate Office.

(13) Easement Agreement recorded as Inst. No. 20020510000223870 in the Probate Office

(14) Restrictive covenants dated February 17, 1988 and set out by Real 181, Page 995, in said Probate Office.

(15) Restrictions, limitations and conditions as set out in Map Book 23, Page 91 in Probate Office.

(16) Release of damages as set out in Inst. #1998-15836 in Probate Office.

(17) Articles of Incorporation of Courtside at Brook Highland Association, Inc. recorded in Inst. No. 2001-29968 in the Probate Office.

(18) Declaration of Condominium of Courtside at Brook Highland, a Condominium, recorded as Inst. No. 2001-29968 and rerecorded as Inst. No. 20020521000241450 with an Amendment recorded as Inst. No. 200205100022392 and corrected as Inst. No. 20020521000241460 along with corrective Amendment recorded as Inst. No. 20020521000241470 in said Probate Office

\$210,400.00 of the consideration was paid from the proceeds of a mortgage loan closed simultaneously herewith.

The Grantee understands and agrees that the Property will be subject to certain covenants for the benefit of The Water Works and Sewer Board of the City of Birmingham requiring the owners of surrounding property located in the Lake Purdy Watershed to establish and maintain a sedimentation and erosion control plan for storm water drainage on such property and to pay assessments to fund such obligations. Further, Grantee understands and agrees that Grantor has obtained from the Alabama Department of Environmental Management (ADEM) a General Permit for stormwater runoff from construction, excavation, land clearing, other land disturbance activities and associated areas to comply with the terms and conditions of said General Permit in the design and construction of improvements on the Property which shall include, without limitation, the preparation and implementation of a Best Management Practices Plan for structural and non-structural practices to prevent/minimize the discharge of all sources of pollution (i.e., sediment, trash, garbage, debris, oil, grease, chemicals, etc.) to State waters in stormwater run-off in accordance with the requirements of the General Permit.

Grantee hereby constitutes and appoints Grantor as their true and lawful agent(s) and attorney-in-fact with full power and authority to do and perform every act necessary and proper to be done and execute any documentation necessary to accomplish the de-annexation of the Courtside development from the City of Birmingham, should Grantor seek to accomplish said de-annexation. Said Power of Attorney shall be irrevocable and binding on Grantees, their heirs, executors, administrators, successors and assigns.

Grantee shall indemnify and hold Grantor harmless for any loss or damage suffered by the Grantor as a result of Grantee's violation of or failure to comply with the terms, conditions and requirements of the General Permit. Further, if Purchaser shall be in violation of the General Permit, Grantor shall have the right after 10 days notice to take such corrective action as may reasonably be necessary to cure such violation and Grantee shall indemnify and hold Grantor harmless for any costs reasonably incurred in taking any such corrective action.

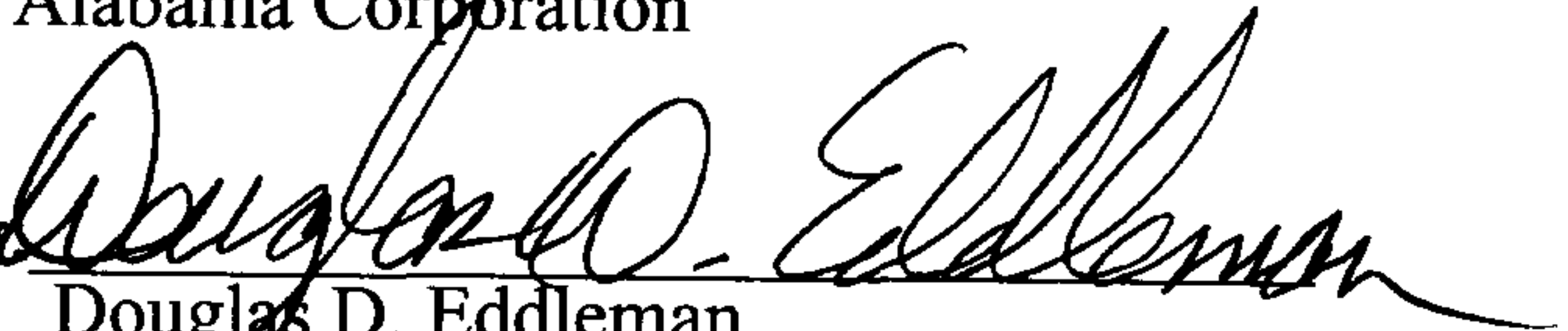
By its acceptance of this deed, Grantee hereby covenants and agrees for itself and its successors, assigns, licensees, lessees, employees and agents that Grantor shall not be liable for, and no action shall be asserted against Grantor for, loss or damage on account of injuries to the Property or to any buildings, improvements, or structures now or hereafter located upon the Property, or on account of injuries to any owner, occupant, or other person in or upon the Property, which are caused by, or arise as a result of, past or future soil and/or subsurface conditions, known or unknown, (including, without limitation, sinkholes, underground mines, and limestone formations) under or on the Property or any other property now or hereafter owned by Grantor, whether contiguous or non-contiguous to the Property. Further, the Grantee, its successors and assigns hereby acknowledges that the Grantor shall not be liable for and no action shall be asserted against Grantor in connection with any drainage easements, ditches or pipes or drainage problems associated therewith and that Grantee has inspected the same and accepts the property along with all drainage easements, ditches or pipes in its present "AS IS" condition. For purposes of this paragraph the term Grantor shall mean and refer to (i) the partners, agents and employees of Grantor; (ii) the officers, directors, employees and agents of general partners of Grantor or partners thereof; (iii) any successors or

assigns of Grantor; and (iv) any successors and assigns of Grantor's interest in the Property. This covenant and agreement shall run with the land conveyed hereby as against Grantee, and all persons, firms, trusts, partnerships, limited partnerships, corporations, or other entities holding under or through Grantee.

**TO HAVE AND TO HOLD** to the said Grantees, as joint tenants, with right of survivorship, their heirs and assigns, forever; it being the intention of the parties to this conveyance, that (unless the joint tenancy hereby created is severed or terminated during the joint lives of the grantees herein) in the event one grantee herein survives the other, the entire interest in the fee simple shall pass to the surviving grantee, and if one does not survive the other, then the heirs and assigns of the grantees herein shall take as tenants in common. And said Grantor does for itself, its successors and assigns, covenant with said Grantees, their heirs and assigns that it is lawfully seized in fee simple of said premises, that they are free from all encumbrances, unless otherwise noted above, that it has good right to sell and convey the same as aforesaid, and that it will and its successors and assigns shall, warrant and defend the same to the said Grantees, their heirs, executors and assigns forever, against the lawful claims of all persons.

**IN WITNESS WHEREOF**, the said Grantor has hereunto set its hand by its duly authorized officer this 28<sup>th</sup> day of August, 2003.

SELLER:  
EDDLEMAN PROPERTIES, INC.  
an Alabama Corporation

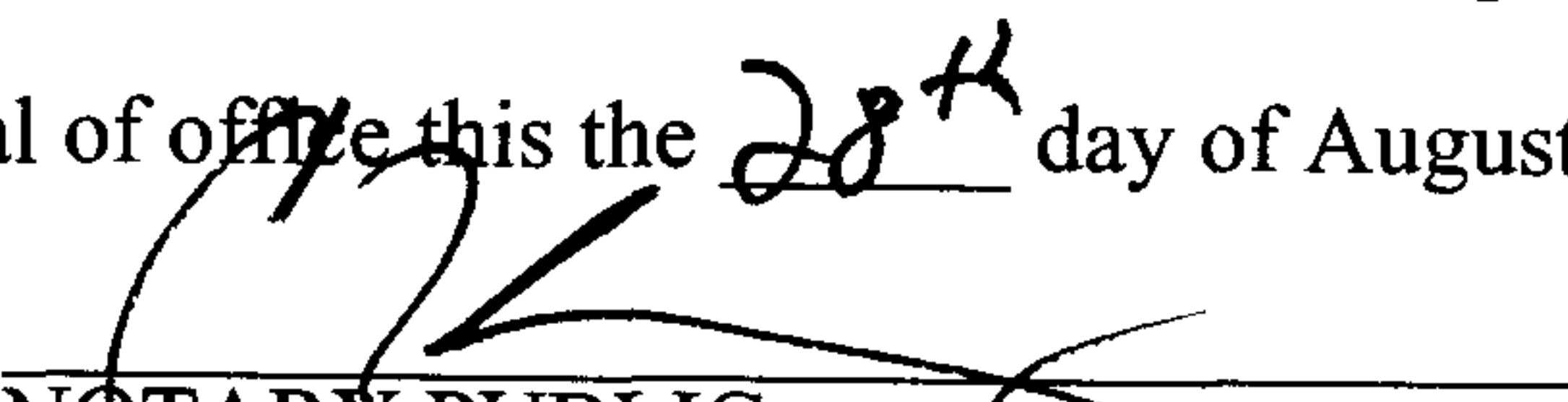
By   
Douglas D. Eddleman,  
Its President

COURTSIDE AT BROOK HIGHLAND  
Unit 55 - David G. Powless

STATE OF ALABAMA     )  
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County in said State hereby certify that Douglas D. Eddleman, whose name as President of Eddleman Properties, Inc., an Alabama Corporation, is signed to the foregoing Deed, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing Deed, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said Corporation.

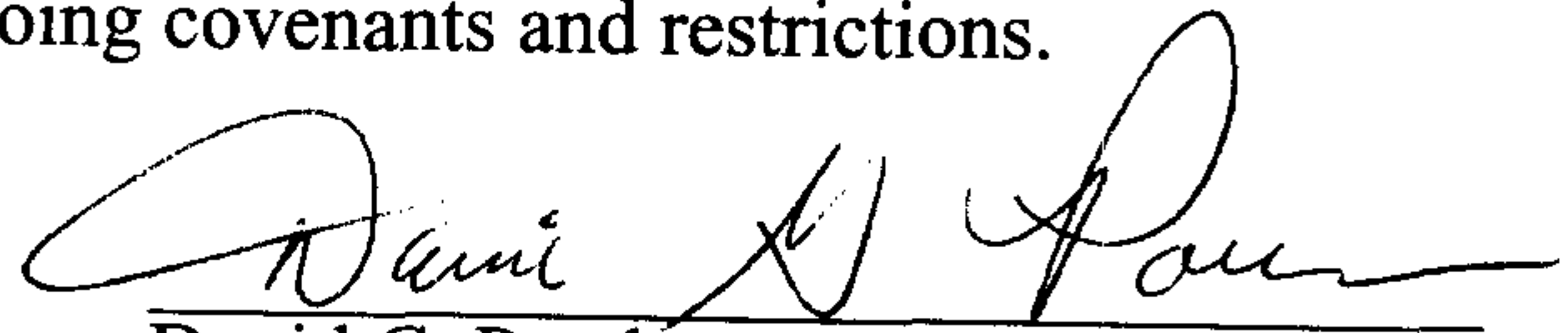
Given under my hand and official seal of office this the 28<sup>th</sup> day of August, 2003.


  
NOTARY PUBLIC

My Commission expires: 6-5-2007



The Grantees execute this deed only to acknowledge and accept all covenants and restrictions contained hereinabove and Grantees, their successors and assigns, agree and understand that the property conveyed herein is subject to the foregoing covenants and restrictions.

  
David G. Powless

  
Karin W. Powless

STATE OF ALABAMA     )  
COUNTY OF JEFFERSON )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that David G. Powless and Karin W. Powless, whose names are signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 28<sup>th</sup> day of August, 2003.

  
NOTARY PUBLIC

My Commission expires: 6-5-2007